



ILLINOIS COMMERCE COMMISSION

June 13, 2002

Riverport Railroad, LLC
Petitioner

Vs.

State of Illinois, Department of Transportation and Carroll County, Illinois
Respondents

Petition for jurisdictional transfer from private to public grade crossing at the former Savanna Army Depot, Carroll County, Illinois.

Burlington Northern and Santa Fe Railway Company, and Carroll County, Illinois,
Petitioners,

V.

State of Illinois Department of Transportation,
Respondent.

Petition for an order formally designating as a public at grade crossing the at grade crossing created by the intersection of the tracks of the Burlington Northern and Santa Fe Railway Company and Carroll County, Illinois, Highway CH 110, DOT No. 069913L, Milepost 153.91 and for an order determining the adequacy of the warning devices at the aforesaid grade crossing location.

T02-0023 ✓
consolidated with

T02-0033

TO ALL PARTIES OF RECORD:

ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER

Attached is a copy of the Administrative Law Judge's Proposed Order in the above referenced matter.

The Administrative Law Judge's Proposed Order is being sent to you pursuant to the Commission's Rules of Practice (83 Ill. Adm. Code 200). Your case is a "contested case" or "licensing case" as defined in Section 200.40 of the Rules and, therefore, the Hearing examiner is required under Section 200.820 to issue a Proposed Order to all parties.

Under Section 200.830 of the Rules, exceptions to the Proposed Order and replies thereto may be filed by the parties within the time periods established by the rules of such other times as fixed by the hearing examiner. The times for filing exceptions and replies are fixed at ten days and five days, respectively.

ENTERED:

June B. Tate
June B. Tate
Administrative Law Judge
Review and Examination Program

JBT:rsc
RR Staff: Railroad Staff: Mr. Humphries

e-docketed

DOJ

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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Petitioner

Vs.

State of Illinois, Department of Transportation and Carroll County,
Illinois
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T02-0023
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Petition for jurisdictional transfer from private to public grade crossing at
the former Savanna Army Depot, Carroll County, Illinois.

Burlington Northern and Santa Fe Railway Company, and Carroll
County, Illinois,
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V.

T02-0033

State of Illinois Department of Transportation,
Respondent.

Petition for an order formally designating as a public at grade crossing
the at grade crossing created by the intersection of the tracks of the
Burlington Northern and Santa Fe Railway Company and Carroll
County, Illinois, Highway CH 110, DOT No. 069913L, Milepost 153.91
and for an order determining the adequacy of the warning devices at
the aforesaid grade crossing location.

PROPOSED ORDER

By the Commission:

On March 18, 2002, Riverport Railroad, LLC ("Riverport") filed with the Illinois Commerce Commission ("Commission") the above-captioned verified petition therein naming as Respondents the Department of Transportation of the State of Illinois ("IDOT") and Carroll County, Illinois ("the County").

On April 9, 2002, Burlington Northern and Santa Fe Railway Company ("BNSF") and Carroll County, Illinois ("the County") filed the above-captioned verified petition therein naming as Respondent the Department of Transportation of the State of Illinois ("IDOT").

In consideration of the commonality of the request for relief, the parties, and the location of the crossings, it was determined that the two petitions should be heard simultaneously.

Pursuant to proper notice, the matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at the Commission's Chicago offices on June 6, 2002. The County and BNSF were represented by counsel. A member of the staff of the Railroad Section, Transportation Division of the Commission, Henry Humphries, appeared. Testimony and evidence were elicited from Kevin Vandendooren, County Engineer; John Koster, managing member of Riverport; and Cheryl Townlian, manager of public projects for BNSF. At the conclusion of a full and public hearing on the aforementioned date, the record was marked "Heard and Taken."

Mr. Vandendooren testified that on the former Savanna Army Depot, now being commercially developed, there is a double main line track of the BNSF crossing Crim Drive in a generally north to south direction. At this intersection, milepost 153.91, DOT 069913L, the warning devices consist of automatic flashing light signals, gates, and bell. Carroll County has assumed ownership and jurisdiction over Crim Drive and designated it as Carroll County Highway CH 110. The roadway crossing is now a dedicated roadway open to the traveling public and the Commission is requested to designate the crossing as a public at-grade crossing.

Riverport has two at-grade crossings approximately one hundred feet (100') feet from the BNSF crossing: 1) Crim Drive (CH 110) and Shinske Road (CH 120) and 2) CN Road (CH 130) and Shinske Road (CH 120). Crossings are timber and rubber, respectively and the warning devices consist of pavement markings and crossbuck signs. There has been no official traffic count but it is estimated that 300 vehicles cross Crim Drive daily and approximately 50 cross CN Road. From five to seven percent (5-7%) of this traffic are trucks. Crim Drive and CN Road are now under the County's jurisdiction. Shinske Road and CN Road are now dedicated roadways open to the traveling public and the Commission is requested to designate the crossings as public at-grade crossings.

Mr. Koster testified that Riverport is a terminal and switching railroad with twenty-eight (28) employees. Riverport operates four engines and switches 700 cars each month. There are four train movements over the track at Crim Drive daily. The maximum speed is ten miles per hour ("mph").

Ms. Townlian testified that BNSF operates thirty-five (35) trains daily in both directions, day and night. The trains originate in Chicago and terminate in Wisconsin and Minneapolis. These are all freight trains traveling at sixty-five mph.

The Commission, having considered the evidence and being fully advised in the premises, is of the opinion and finds that:

ADMINISTRATIVE LAW JUDGE'S
PROPOSED ORDER

T02-0023 con.w/ T02-0033

- (1) Carroll County, Illinois is a political subdivision organized and existing under and by virtue of the laws of the State of Illinois;
- (2) the Burlington Northern and Santa Fe Railway Company and Riverport Railroad, LLC are corporations engaged in the transportation of persons and/or property by rail in the State of Illinois, and as such are rail carriers as defined by the Illinois Commercial Transportation Law;
- (3) the Department of Transportation of the State of Illinois exists by virtue of the laws of the State of Illinois;
- (4) the Commission has jurisdiction of the parties hereto and the subject matter hereof;
- (5) the Burlington Northern and Santa Fe Railway Company has a double main line track running in a general north-south direction on property formerly known as Savanna Army Depot; the track crosses the former Crim Road, now known as Carroll County Highway CH 110;
- (6) Riverport Railroad, LLC has two single tracks: one which crosses Crim Drive (CH 110) and Shinske Road (CH 120) and one which crosses CN Road (CH 130) and Shinske Road;
- (7) Crim Drive, Shinske Road, and CN Road are now dedicated County Highways serving the traveling public and Petitioners, Burlington Northern and Santa Fe Railway Company and Riverport Railroad, LLC, request that the railroad crossings over them be designated as public crossings;
- (8) the Commission finds that public safety, convenience, and necessity dictate that the crossings be designated as public crossings;
- (9) the Commission finds that the warning devices at the Burlington Northern and Santa Fe Railway Company crossing of Crim Drive (CH 110) are adequate and sufficient to protect the general traveling public.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the crossing of the tracks of the Burlington Northern and Santa Fe Railway Company at Crim Drive (CH 110) in Carroll County, Illinois, be, and it is hereby designated as a public at-grade crossing.

IT IS FURTHER ORDERED that the crossing of the tracks of Riverport Railroad, LLC, at Crim Drive (CH 110) and Shinske Road (CH 120) and the crossing of the tracks at CN Road (CH 130) and Shinske Road, be, and the same are hereby designated as public at-grade crossings.

IT IS FURTHER ORDERED that the warning devices at the Crim Road (CH 110) intersection with the tracks of the Burlington Northern and Santa Fe Railway Company are adequate and sufficient for the safety of the general traveling public.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final order subject to the Administrative Review Law.

By Order of the Commission this day of 2002.

Chairman